

57



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/264,171	03/05/1999	LESLIE STROH	STROH	2689

545 7590 07/09/2002

HANDAL & MOROFSKY  
80 WASHINGTON STREET  
NORWALK, CT 06854

EXAMINER

AKERS, GEOFFREY R

ART UNIT	PAPER NUMBER
----------	--------------

3624

DATE MAILED: 07/09/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/264,171

Applicant(s)

Streh

Examiner

Alex, G

Group Art Unit

3628

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

- ☒ Responsive to communication(s) filed on 4/30/02
- ☐ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1-97 is/are pending in the application.
- Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 1-97 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
  - ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.
  - ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_
  - ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s) \_\_\_\_\_
- ☐ Interview Summary, PTO-413
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other \_\_\_\_\_

Office Action Summary

Art Unit: 3624

**DETAILED ACTION**

***Response to Amendment***

1. This action is in response to applicant's amendment filed originally 4/30/02 and faxed subsequently on 6/26/02 and entered into the file at that time.
2. Claim 35 was amended for the second time. New claims 92-97 were added. No claims were cancelled.
3. Claims 1-97 are pending.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Independent claims 35,44,64,68,75,81,82 are rejected under 35 USC 112(2nd) for failure to specifically point out and distinctly state what applicant regards as his invention.

***Claim Rejections - 35 USC § 101***

6. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

The claimed invention lacks specificity in the independent claims 35,44,64,68,75,81,82 as to how one would implement the invention and reduce it to concrete, tangible and utilitarian form. In its present form, it lacks patentable utility.

Art Unit: 3624

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Newly and solely twice amended independent claim 35 is rejected under 35 USC 103(a) as unpatentable over Ordish(US Pat. No: 5,727,165) in view of Odom(US Pat. No: 6,058,379) and further in view of Barron's "Dictionary of Finance & Investment Terms"(1998)("Barrons").

9.(TWICE AMENDED) As per claim 35, Barrons teaches a trade finance method for financing the sale of a traded product supplied by a seller to a buyer(page 3)physically separated from the buyer . Ordish teaches the buyer providing an event-activated, latent payment draft(time) to the seller of the seller's agent prior to release of the traded product from the seller's control(col 3 lines 16-35)(col 7 lines 2-28)(Fig 7). Odom teaches the event activated payment draft is payable to the seller's order(col 13 lines 26-33)(col 6 line 59-col 7 line 14) and is drawn on the buyer and is executed by the buyer to indicate the buyer's acceptance of the payment draft(col 13 lines 34-36).Barron's teaches that the payment draft is payable to the seller's order by a financial institution and is drawn on the buyer at the financial institution and executed by the buyer to indicate the buyer's acceptance of the draft and orders a payment of a specified amount of money to be made within a term commencing with the date of occurrence of an activating event specified in the payment draft being a date occurring after execution of the payment draft by the buyer(page

Art Unit: 3624

3). Odom teaches the seller releasing the traded product for delivery to the buyer(col 7 lines 56-60)(Fig 5/530).It would have been obvious to one skilled in the art at the time of the invention to combine Ordish in view of Odom. The motivation to combine is to teach a networked commerce system that permits a user to bid automatically on items that require time to search for items of interest to the buyer as taught by Odom(col 2 lines 14-26).Furthermore, it would also have been obvious to one skilled in the art at the time of the invention to combine Ordish in view of Odom and further in view of Barron's to teach the above. The motivation to combine is to teach a trade finance method for financing the sale of a traded product utilizing a time-related event as a driving actuated latent payment mechanism as taught by Barrons(page 3).

***Response to Arguments***

10. Applicant's arguments with respect to claims 1-97 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

11. **THIS ACTION IS MADE NON-FINAL.**

Questions regarding this communication should be addressed to the examiner, Dr. Geoffrey Akers, P.E. who can be contacted at (703)-306-5844 between the hours of 6:30 AM and 5:00 PM Monday through Friday. If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Mr. Vincent Millin, SPE, may be telephoned at (703)-308-1065.

GRA

June 27, 2002

